



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission Members
From: Jonathan Wayne, Executive Director
Date: August 19, 2008
Re: Update on Maine Clean Election Fund

This memo is to update you on the financial status of the Maine Clean Election Fund for the 2010 elections. In the 2009 legislative session, the Legislature will determine the state's budget for the biennium covering fiscal years 2010 and 2011. This period runs from July 1, 2009 to June 30, 2011, and covers the 2010 legislative and gubernatorial elections.

With your approval, the staff intends to ask the Governor to include in his FY 2010 and 2011 budget bill two transfers of money from the General Fund to the Maine Clean Election Fund totaling \$4,425,000. The Governor supported these transfers earlier this year, and they were approved by the Legislature in Part L of Chapter 539 of the Public Laws of 2007 (attached).

Past Commission Request to the Legislature

Roughly one year ago on August 13, 2007, I discussed with the Commission members that the Maine Clean Election Fund would not have sufficient money to pay candidates in 2010 due to past legislative deappropriations. As shown in an attachment to this memo, the net amount transferred from the Fund by past Legislatures is \$4,425,000.

At the August 13, 2007 meeting, the Commission approved a proposal from the staff to request two transfers totaling \$5,200,000 in fiscal years 2010 and 2011. The Governor did not include this full amount in his 2008 budget bill, but rather included two transfers totaling \$4,425,000, which were ultimately approved by the Legislature.

Finalizing the Budget

To make these transfers part of the budget for the state for fiscal years 2010 and 2011, they would need to be included in the Legislature's final budget legislation for the biennium. The staff is preparing the Commission's budget for FY 2010 and 2011 for consideration by the state's Bureau of the Budget, and wishes to include the \$4,425,000 transfers.

Outlook for the 2010 Elections

The staff has included in the attached pages its preliminary projections for the cost of the Maine Clean Election Act program in the 2010 elections. The largest factor is the number of candidates in the 2010 general election for Governor who will qualify to receive public funding. Attempting to be conservative, the staff is presuming that four candidates for Governor in the 2010 general election will be publicly funded under the Maine Clean Election Act. If fewer than four candidates in the general election qualify, then the Fund will have sufficient funds for 2010.

Another factor is the amount of the initial payments that will be made to legislative candidates in the 2010 elections. Under current law, the amount of those payments is calculated based on the average amount spent by legislative candidates in the previous two elections. Since we do not know how much legislative candidates will spend this campaign year, we cannot make a final calculation of the amount of the 2010 initial payments.

The Commission staff believes that the calculation of the initial payments based on average spending by candidates has resulted in an artificial increase in the cost of the Maine Clean Election Act program. The staff intends to present you with a legislative proposal later this year that is intended to slow the growth in the overall cost of the program.

To provide you with a general picture of how the amount of the initial payments can affect the overall cost of the program, we have provided you with two scenarios concerning the cost of the legislative races. Scenario A uses 2010 initial payment amounts calculated based on presumed average candidate spending in 2006 and 2008. Scenario B uses 2010 initial payments that are roughly 10% higher than the initial payments made this year.

Thank you for your consideration of this report.

system, e-mail; lease-purchase authorization. Pursuant to the Maine Revised Statutes, Title 5, section 1587, the Department of Administrative and Financial Services, Office of Information Technology may enter into financing arrangements on or after July 1, 2008 for the acquisition of a statewide enterprise system to facilitate e-mail archiving and related activities, including software, necessary hardware and peripherals and contractual services associated with the implementation and deployment of the system. The financing arrangements may not exceed \$3,000,000 in principal costs and 5 years in duration. The interest rate may not exceed 8%, and interest costs may not exceed \$700,000. The annual principal and interest costs must be paid from the appropriate line category in the Office of Information Services account.

PART J

Sec. J-1. Transfer from the Maine Asthma and Lung Disease Research Fund Other Special Revenue Funds; unexpended funds. Notwithstanding any other provision of law, the State Controller shall transfer \$14,648 in unexpended funds from the Maine Asthma and Lung Disease Research Fund Other Special Revenue Funds account within the Department of Administrative and Financial Services in fiscal year 2007-08 to General Fund unappropriated surplus.

PART K

Sec. K-1. Transfer; Department of Inland Fisheries and Wildlife carrying account; training reimbursement. On or before June 30, 2008, the State Controller shall transfer \$7,200 from the Department of Inland Fisheries and Wildlife carrying account to the Enforcement Operations program for training reimbursement.

Sec. K-2. Transfer; Department of Inland Fisheries and Wildlife carrying account; legal fees. On or before June 30, 2008, the State Controller shall transfer \$140,000 from the Department of Inland Fisheries and Wildlife carrying account to the Office of the Commissioner program for legal fees.

Sec. K-3. Transfer; Department of Inland Fisheries and Wildlife carrying account; management review reimbursements. On or before June 30, 2008, the State Controller shall transfer \$45,000 from the Department of Inland Fisheries and Wildlife carrying account to the Enforcement Operations program for management review reimbursements.

Sec. K-4. Transfer; Department of Inland Fisheries and Wildlife carrying account; retroactive pay to employees. On or before June 30, 2008, the State Controller shall transfer \$8,565 from the Department of Inland Fisheries and Wildlife carrying account to the Public Information and Education

program and \$211,165 to the Fisheries and Hatcheries Operations program for retroactive pay to employees.

Sec. K-5. Transfer; Department of Inland Fisheries and Wildlife carrying account; purchase of airplane engine. On or before September 1, 2008, the State Controller shall transfer \$30,000 from the Department of Inland Fisheries and Wildlife carrying account to the Enforcement Operations program for the purchase of one airplane engine.

Sec. K-6. Transfer; Department of Inland Fisheries and Wildlife carrying account; fisheries and hatcheries. On or before June 30, 2008, the State Controller shall transfer \$79,000 from the Department of Inland Fisheries and Wildlife carrying account to the Fisheries and Hatcheries Operations program to cover an unanticipated shortfall in the All Other line.

Sec. K-7. Transfer; Department of Inland Fisheries and Wildlife carrying account; enforcement operations. On or before June 30, 2008, the State Controller shall transfer \$270,000 from the Department of Inland Fisheries and Wildlife carrying account to the Enforcement Operations program to cover an unanticipated shortfall in the All Other line.

Sec. K-8. Publication of magazine; development of plan. The Department of Inland Fisheries and Wildlife shall maintain publication of "Maine Fish and Wildlife Magazine" and develop a plan for the magazine to be self-supporting.

PART L

Sec. L-1. Transfers to Maine Clean Election Fund. In addition to the transfers authorized pursuant to the Maine Revised Statutes, Title 21-A, section 1124, the State Controller shall transfer \$2,425,000 from General Fund undedicated revenue to the Maine Clean Election Fund on or before June 1, 2010 and shall transfer an additional \$2,000,000 from General Fund undedicated revenue to the Maine Clean Election Fund on or before August 1, 2010.

Sec. L-2. Reduction in payments under the Maine Clean Election Fund. Notwithstanding the procedures set forth in the Maine Revised Statutes, Title 21-A, section 1125, subsection 8, the Commission on Governmental Ethics and Election Practices shall reduce the initial payment amounts established for Maine Clean Election Act candidates in the 2008 and 2009 general election by 5%.

Sec. L-3. Transfer of funds from Maine Clean Election Fund. Notwithstanding any other provision of law, the State Controller shall transfer \$135,199 on or before June 30, 2008 and \$135,717 on or before June 30, 2009 from the Maine Clean Election Fund to the unappropriated surplus of the General Fund.

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History of Transfers from Maine Clean Election Fund

Transfers from Maine Clean Election Fund Totaling \$8,025,000		
\$4.0 million to Maine Rainy Day Fund	P.L. 2001, Chapter 559, Part E-3 (May 2002)	Transferred on June 30, 2003
\$2.5 million to General Fund	P.L. 2001, Chapter 714, Part N-1 (Nov. 2002)	Transferred on June 30, 2003
\$225,000 to General Fund	P.L. 2003, Chapter 20, Part D-26 (June 2003)	Transferred on June 30, 2004
Reduction of \$1.3 million in FY 09 revenue	P.L. 2007, Chapter 240, Part F (June 2007)	Reduction in January 1, 2009 revenue
Returns to Maine Clean Election Fund Totaling \$3,600,000		
\$2.4 million from General Fund	P.L. 2005, Chapter 3, Part P-1 (March 2005)	Returned on January 1, 2006
\$1.2 million from General Fund	P.L. 2005, Chapter 519, Part KK (April 2006)	Returned on September 30, 2006

**Net Transfer from Maine Clean Election Fund =
\$4,425,000**

Maine Clean Election Fund

Preliminary Projected Revenues and Expenditures for FY 10, 11

(8/25/08)

Revenue for Fiscal Year 2010

	SCENARIO A	SCENARIO B
Cash Balance from FY 2009	\$2,951,775	\$2,951,775
Annual Transfer from General Fund (1/1/10)	\$2,000,000	\$2,000,000
Qualifying Contributions in 2010 (4/15/10 and 6/2/10)	\$160,500	\$160,500
Additional Transfer Requested (by 6/1/10)	\$2,425,000	\$2,425,000
Taxpayer Check-Off (6/30/10)	\$190,000	\$190,000
Interest	\$137,736	\$137,945
Penalties	\$4,000	\$4,000
Other Income	\$0	\$0
Total	\$7,869,011	\$7,869,220

Expenditures for Fiscal Year 2010

Personnel	\$355,307	\$355,307
Other Administrative Costs	\$245,667	\$245,667
Legislative - Primary Election Initial Distributions	\$400,770	\$369,986
Legislative - Primary Election Matching Funds	\$41,018	\$41,018
Legislative - General Election Initial Distributions	\$2,877,080	\$2,595,339
Gubernatorial - Primary Election Initial Distributions	\$1,000,000	\$1,000,000
Gubernatorial - Primary Election Matching Funds	\$800,000	\$800,000
Gubernatorial - General Election Initial Distributions	\$2,400,000	\$2,400,000
Total	\$8,119,841	\$7,807,316

Revenue for Fiscal Year 2011

Cash Balance from FY 2010	-\$250,830	\$61,904
Additional Transfer Requested (by 8/1/10)	\$2,000,000	\$2,000,000
Annual Transfer from General Fund (by 9/1/10)	\$2,000,000	\$2,000,000
Taxpayer Check-Off (6/30/11)	\$190,000	\$190,000
Interest	\$23,271	\$39,732
Penalties	\$4,000	\$4,000
Other Income	\$0	\$0
Total	\$3,966,441	\$4,295,636

Expenditures for Fiscal Year 2011

Personnel	\$415,324	\$415,324
Other Administrative Costs	\$196,070	\$196,070
Legislative - General Election Matching Funds (NET - see notes)	\$1,168,605	\$1,044,801
Gubernatorial - General Election Matching Funds	\$2,400,000	\$2,400,000
Total	\$4,179,999	\$4,056,195

Projected Balance on 11/2/10 General Election

Projected Balance on 6/30/11

-\$484,452	\$878
-\$213,557	\$239,442

**Projected Payments to Gubernatorial Candidates in 2010
(8/25/08)**

Primary Election Initial Payment	Primary Election Matching Funds	General Election Initial Payment	General Election Matching Funds	Total for Candidate
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Democrat 1 (nominee)	\$200,000	\$200,000	\$600,000	\$600,000	\$1,600,000
Democrat 2	\$200,000	\$200,000	\$0	\$0	\$400,000
Republican 1 (nominee)	\$200,000	\$200,000	\$600,000	\$600,000	\$1,600,000
Republican 2	\$200,000	\$200,000	\$0	\$0	\$400,000
Green-Independent	\$200,000	\$0	\$600,000	\$600,000	\$1,400,000
Independent	\$0	\$0	\$600,000	\$600,000	\$1,200,000
Total	\$1,000,000	\$800,000	\$2,400,000	\$2,400,000	\$6,600,000

Presumptions:

- 1) Four candidates in general election will be publicly funded.
- 2) In Democratic and Republican primary elections, two candidates will be publicly funded.
- 3) Participants in the primary election will qualify for \$200,000 each, rather than the maximum of \$400,000

Note: the actual cost will be determined by which candidates choose to run for Governor in 2010 and which candidates will try to qualify for publicly funding. It is very difficult to accurately forecast these candidate decisions as of 8/25/08.

**Total Projected Payments
to 2008 and 2010 Legislative Candidates (8/25/08)**

	2008	2010 Scenario A	2010 Scenario B
Primary Election Initial Distributions	\$345,404	\$400,770	\$369,986
Primary Election Matching Funds	\$20,509	\$41,018	\$41,018
General Election Initial Distributions	\$2,127,642	\$2,877,080	\$2,595,339
General Election Matching Funds (net returns)	\$1,031,464	\$1,168,605	\$1,044,801
Total	\$3,525,019	\$4,487,473	\$4,051,144

**Projected Initial Payments to 2008 and 2010
Legislative Candidates (8/25/08)**

	<i># of 2004 Participants in Category</i>	<i># of 2006 Participants in Category</i>	<i>Projected # for 2008</i>	<i>Projected Cost for 2008</i>	<i>Projected # for 2010</i>	<i>Projected Cost for 2010 Scenario A</i>	<i>Projected Cost for 2010 Scenario B</i>
Initial Payments for Primary							
House - Contested Candidates	41	32	31	\$44,495	36	\$42,444	\$54,144
House - Uncontested Candidates	207	212	209	\$104,788	220	\$144,320	\$112,640
Total	248	244	240	\$149,283	256	\$186,764	\$166,784
Senate - Contested Candidates	18	9	14	\$107,840	14	\$90,454	\$112,462
Senate - Uncontested Candidates	45	56	47	\$88,281	52	\$123,552	\$90,740
Total	63	65	61	\$196,121	66	\$214,006	\$203,202
Total Initial Payments for Primary				\$345,404		\$400,770	\$369,986
Initial Payments for General							
House - Contested - Democrats	127	136	129	\$534,576	137	\$720,620	\$625,953
House - Contested - Republicans	103	101	89	\$368,816	103	\$541,780	\$470,607
House - Contested - Greens	15	5	7	\$29,008	10	\$52,600	\$45,690
House - Contested - Unenrolleds	5	3	7	\$29,008	5	\$26,300	\$22,845
House - Uncontested	0	3	13	\$21,554	0	\$0	\$0
Total	250	248	245	\$982,962	255	\$1,341,300	\$1,165,095
Senate - Contested - Democrats	28	32	29	\$553,262	32	\$722,720	\$673,056
Senate - Contested - Republicans	26	31	28	\$534,184	30	\$677,550	\$630,990
Senate - Contested - Greens	1	2	2	\$38,156	3	\$67,755	\$63,099
Senate - Contested - Unenrolleds	2	2	1	\$19,078	3	\$67,755	\$63,099
Senate - Uncontested	1	0	0	\$0	0	\$0	\$0
Total	58	67	60	\$1,144,680	68	\$1,535,780	\$1,430,244
Total Initial Payments for General				\$2,127,642		\$2,877,080	\$2,595,339

	2006 Initial Payment	2006 Average Expenditures	2008 Actual Initial Payment Amounts (reduced for GE from 2006 by 5%)	SCENARIO A Presumed 2010 Initial Payment Amounts (same as 2006 average expenditures)	SCENARIO B Presumed 2010 Initial Payment Amounts
Primary elections					
Rep - contested	\$1,504	\$1,179	\$1,504.00	\$1,179	\$1,504
Rep - uncontested	\$512	\$656	\$512.00	\$565	\$512
Sen - contested	\$7,746	\$6,461	\$7,746.00	\$6,461	\$8,033
Sen - uncontested	\$1,927	\$2,376	\$1,927.00	\$1,376	\$1,745
General elections					
Rep - contested	\$4,362	\$5,260	\$4,144.00	\$5,260	\$4,569
Rep - uncontested	\$1,745	\$2,104	\$1,658.00	\$2,104	\$1,828
Sen - contested	\$20,082	\$22,585	\$19,078.00	\$22,585	\$21,033
Sen - uncontested	\$8,033	\$9,034	\$7,631.00	\$9,034	\$8,413

Table E
Projected Matching Funds for 2010 Legislative Candidates (8-25-08)

SCENARIO A					
	Projected # of Candidates Receiving Matching Funds	Amount of Matching Funds Paid Each Candidate	Total Projected Payments	Projected Amount Authorized to Spend	Projected Unauthorized Funds to be Returned
House Candidates	115	\$5,260	\$604,900		
	25	\$10,520	\$263,000		
			\$867,900	\$694,320	\$173,580
Senate Candidates	25	\$22,585	\$564,625		
	5	\$45,170	\$225,850		
			\$790,475	\$474,285	\$316,190
Legislative total			\$1,658,375	\$1,168,605	\$489,770

SCENARIO B					
	Projected # of Candidates Receiving Matching Funds	Amount of Matching Funds Paid Each Candidate	Total Projected Payments	Projected Amount Authorized to Spend	Projected Unauthorized Funds to be Returned
House Candidates	115	\$4,569	\$525,435		
	25	\$9,138	\$228,450		
			\$753,885	\$603,108	\$150,777
Senate Candidates	25	\$21,033	\$525,825		
	5	\$42,066	\$210,330		
			\$736,155	\$441,693	\$294,462
Legislative total			\$1,490,040	\$1,044,801	\$445,239

NOTES

	Scenario A	Scenario B
April 2010 MCEA Payments		
Leg - Primary Initial Distributions	\$400,770	\$369,986
Leg - Primary Matching Funds	\$41,018	\$41,018
Gov - Primary Initial Distributions	\$1,000,000	\$1,000,000
Gov - Primary Matching Funds	\$800,000	\$800,000
Total for April	\$2,241,788	\$2,211,004
June 2010 MCEA Payments		
Leg - General Initial Distributions	\$2,877,080	\$2,595,339
Gov - General Initial Distributions	\$2,400,000	\$2,400,000
Total for June	\$5,277,080	\$4,995,339
Oct 2010 MCEA Payments		
Leg - General Matching Funds	\$1,658,375	\$1,490,040
Gov - General Matching Funds	\$2,400,000	\$2,400,000
Total for Oct	\$4,058,375	\$3,890,040
Nov 2010 Returned Legislative Matching Funds	\$489,770	\$445,239

	Projected Amount Authorized to Spend	Projected Unauthorized Funds to be Returned
Total Projected Payments		
	\$2,578,660	\$1,547,196
2008		

Staff proposes to advance 50% of the maximum matching funds in 2010 to legislative candidates except those in the most competitive districts.

	General Fund Transfers	Scenario A		Scenario B	
		Payments to Candidates	Cash Balance at End of Month Scenario A	Payments to Candidates	Cash Balance at End of Month Scenario B
FY 2010			\$2,951,775		\$2,951,775
Jul 09			\$2,888,620		\$2,888,620
Aug 09			\$2,829,195		\$2,829,195
Sep 09			\$2,794,566		\$2,794,566
Oct 09			\$2,755,886		\$2,755,886
Nov 09			\$2,721,004		\$2,721,004
Dec 09			\$2,685,700		\$2,685,700
Jan 10	\$2,000,000		\$4,646,956		\$4,646,956
Feb 10			\$4,618,588		\$4,618,588
Mar 10			\$4,588,583		\$4,588,583
Apr 10		\$2,241,788	\$2,458,855	\$2,211,004	\$2,489,639
May 10	\$2,425,000		\$4,847,677		\$4,878,564
Jun 10		\$5,277,080	-\$250,830	\$4,995,339	\$61,904
FY2010 Total	\$4,425,000	\$7,518,868		\$7,206,343	
FY 2011			-\$250,830		\$61,904
Jul 10	\$2,000,000		\$1,695,305		\$2,009,081
Aug 10	\$2,000,000		\$3,651,734		\$3,966,592
Sep 10			\$3,614,903		\$3,930,845
Oct 10		\$4,058,375	-\$484,452	\$3,890,040	\$878
Nov 10		-\$489,770	-\$45,760	-\$445,239	\$396,711
Dec 10			-\$95,322		\$348,624
Jan 11			-\$148,680		\$296,795
Feb 11			-\$198,601		\$248,408
Mar 11			-\$248,628		\$199,771
Apr 11			-\$302,514		\$147,430
May 11			-\$352,932		\$98,512
Jun 11			-\$213,557		\$239,442
FY 2011 Total	\$4,000,000	\$3,568,605		\$3,444,801	